

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MIA C. ALFORD and DEPARTMENT OF JUSTICE,
DRUG ENFORCEMENT ADMINISTRATION, Arlington, VA

*Docket No. 98-285; Submitted on the Record;
Issued October 6, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant sustained a recurrence of disability as of March 1, 1996 causally related to her accepted August 16, 1989 lower back injury.

On August 16, 1989 appellant, a 27-year-old clerk typist, experienced pain in her left arm, left shoulder and chest, in addition to shortness of breath and dizziness while lifting folders into file cabinets. Appellant filed a Form CA-1 claim for benefits on August 22, 1989 which the Office of Workers' Compensation Programs accepted for cervical strain, trapezia strain and aggravation of bilateral carpal tunnel syndrome. Appellant was placed on the periodic rolls and received compensation for appropriate periods.

In September 1993 the employing establishment located a modified limited-duty job for appellant, in which she would be required to work six hours per day. Appellant accepted this position on September 27, 1993. Appellant was paid partial disability compensation from September 27, 1993 to September 7, 1995.

On July 8, 1997 appellant filed a Form CA-2a claim for recurrence of disability, alleging that on March 1, 1996 she experienced aggravation of carpal tunnel syndrome, in addition to leg and arm pain, due to typing, lifting and bending. Appellant alleged that this recurrence had been caused or aggravated by her August 16, 1989 employment injury.

The record contains several medical reports from Dr. Fredric K. Cantor, Board-certified in anesthesiology, psychiatry and neurology and appellant's treating physician. These reports contained updates on appellant's condition from March through June 1995 and from March through April 1996. Dr. Cantor indicated in his March 7, 1995 report, that appellant had a large ovoid tender area of trigger points which could be felt in the superior left trapezius. He advised that this represented a reinjury of her old problem. In his March 19, 1996 report, Dr. Cantor noted that appellant had sustained a recurrence of her left neck and shoulder girdle pain in May and June 1995, which she believed was aggravated by her work activities. He related in his

April 9 and 30, 1996 reports, that appellant was still not working because of persistent left shoulder girdle pain and spasm.

Appellant also submitted two radiology reports dated May 13, 1997, indicating the results of May 12, 1997, magnetic resonance imaging (MRI) tests of the lumbar and cervical spine. The lumbar MRI results indicated a mild bulge evidence at L3-4 and L4-5, with no focal herniation or canal compromise. The cervical MRI results indicated that appellant had mild spondylosis with minimal loss of disc height. The tests also indicated mild posterior spurs which were minimally impinging the dural sac without significant canal or foraminal compromise and no evidence of focal herniation.

By telephone call dated July 14, 1997, appellant verbally informed the Office that she had returned to regular full-time duty performing her regular duty in 1994, although she was unable to remember the exact date. The Office informed appellant that its records indicated she received partial disability benefits until September 7, 1995. Appellant stated that she stopped work when she gave birth on August 11, 1994 and returned to work from maternity leave on November 11, 1994. In addition, appellant informed the Office during a personal visit on July 14, 1997 that she had been terminated by the employing establishment in March 1996 because her employment-related conditions prohibited her from performing the duties of her job.¹

By letter dated July 14, 1997, the Office advised appellant that it required additional medical evidence, including a comprehensive medical report, to support her claim that her current condition/or disability as of March 1, 1996 was caused or aggravated by her accepted August 16, 1989 employment injury. The Office also requested that appellant submit a factual statement explaining the circumstances of her alleged recurrence.

Appellant submitted a September 8, 1997 report from Dr. Perry K. Richardson, Board-certified in psychiatry and neurology, who related that she complained of constant left leg pain in addition to intermittent left arm pain and pain at the left toes. Dr. Richardson stated that appellant's neurological examination reflected muscle tenderness in the left elbow and forearm and diffusely in the left thigh. He also advised that appellant had somewhat symmetric brisk reflexes at her knees, with giveaway weakness proximally and distally in the left arm and left leg. Dr. Richardson concluded that appellant had musculoskeletal/myofascial pain in the left arm and left leg.

By decision dated October 3, 1997, the Office denied appellant compensation for a recurrence of her accepted August 16, 1989, employment-related conditions. The Office found

¹ The Office indicated in its memorandum of telephone call that it intended to contact the employing establishment in order to obtain copies of records confirming appellant's assertions, but the record contains no evidence that the Office obtained these records. Appellant submitted no documentation to corroborate these assertions, although a March 7, 1995 report from Dr. Cantor indicated that appellant "eventually returned to work at full duty." In a handwritten note to the Office dated March 19, 1997, appellant stated that she had indicated to the Office that she had been injured on May 16, 1995, July 8 and November 8, 1996 and was removed from the employing establishment on October 10, 1996. She further stated that she had reinjured her back on March 8, 1995.

that appellant failed to submit medical evidence sufficient to establish that the claimed condition or disability was caused or aggravated by the August 16, 1989 employment injury.

The Board finds that appellant has failed to establish that she sustained a recurrence of disability as of March 1, 1996, causally related to the August 16, 1989 employment injury.

An individual who claims a recurrence of disability resulting from an accepted employment injury has the burden of establishing that the disability is related to the accepted injury. This burden requires furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the employment injury and who supports that conclusion with sound medical reasoning.²

The record contains no such medical opinion. Indeed, appellant has failed to submit any medical opinion containing a rationalized, probative report which relates her disability for work as of March 1, 1996 to her August 16, 1989 employment injury. For this reason, she has not discharged her burden of proof to establish her claim that she sustained a recurrence of disability as a result of her accepted employment injury.

The only medical evidence which appellant submitted consisted of the May 13, 1997 radiology reports indicating the results of her lumbar and cervical MRI tests; Dr. Cantor's periodic progress reports; and Dr. Richardson's September 8, 1997 report. These test results and medical reports generally described appellant's complaints of leg, elbow, shoulder and back pain but did not provide a rationalized, probative medical opinion indicating that her current condition was caused or aggravated by the accepted August 16, 1989 employment injury.³

Dr. Cantor's opinion on causal relationship is of limited probative value in that he did not provide adequate medical rationale in support of his conclusions.⁴ Although Dr. Cantor generally stated that appellant had sustained a reinjury or recurrence of her accepted August 16, 1989 employment injury, he did not explain the process through which appellant's current condition as of March 1, 1996 was caused or aggravated by the work injury. Furthermore, his opinion is of limited probative value because it is generalized in nature and equivocal in that he only stated appellant was still not working in March and April 1996, because of persistent left shoulder girdle pain and spasm, without relating how these conditions were caused or aggravated by her employment injury. Dr. Richardson noted findings on examination of left leg, left arm and left toe pain and diagnosed musculoskeletal/myofascial pain in the left arm and left leg, but did not provide an opinion as to whether appellant's symptoms were caused or aggravated by the August 16, 1989 employment injury.

As there is no medical evidence addressing and explaining why the claimed condition and disability as of March 1, 1996, was caused or aggravated by her August 16, 1989

² *Dennis E. Twardzik*, 34 ECAB 536 (1983); *Max Grossman*, 8 ECAB 508 (1956); 20 C.F.R. § 10.121(a).

³ *William C. Thomas*, 45 ECAB 591 (1994).

⁴ *Id.*

employment injury, appellant has not met her burden of proof in establishing that she sustained a recurrence of disability.

The October 3, 1997 decision of the Office of Workers' Compensation Programs is, therefore, affirmed.

Dated, Washington, D.C.
October 6, 1999

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member